

Trans-Pacific Partnership Agreement (TPP): Do We Want to Create This Monster?

Women Occupy San Diego (WOSD), a women's civic organization consisting of over 200 women and focused on issues of economic and social justice, has reviewed the information available on the TPP and has serious concerns about the impact of such an agreement on the health and welfare of American citizens, as well as the citizens of other nations who are parties to this proposed agreement. Our quality of life depends upon our ability to make informed decisions about what we own, buy and sell, free from interference by international groups that can compromise our abilities and rights to make those informed choices. We represent mothers, grandmothers, daughters, grand-daughters, and all who are concerned about the quality of a free society for our children and grandchildren and for all of the citizens of our country and the international community.

We are extremely concerned that the proponent of this proposed agreement, (the United States Government under Presidents Bush and Obama) has not fully assessed and communicated the effects, on all levels, of its previous "free" trade agreements. There are lessons to be learned from over ten years of experience with NAFTA alone. Yet, these lessons appear to be ignored by the President and trade authorities in the USA.

We believe the structure and provisions of the TPP will create a world in which multi-national corporations will prevail over national laws and contrary to the interests of ordinary citizens. The TPP is the most detailed, massive trade agreement proposed to

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date and will affect the lives of individual human beings around the world who have absolutely no say in the content or implementation of the agreement.

Some of the concerns we have identified from our review of available TPP information include:

Threats to National Sovereignty

The TPP has been drafted in secret by over 600 corporate lobbyists, with access to draft agreements denied to members of Congress - until now. Thanks to leaked documents, and to the one Congressman – Alan Grayson - who has been “allowed” to read it but not reveal its contents (the draft text of the TPP has been classified under a twisted view of what documents should be classified), we know that the TPP gives corporations the power to sue governments for loss of profits resulting from the countries’ laws which protect the public health and welfare.

For example, under established trade agreements, Phillip Morris is suing the Government of Uruguay for lost profits in an amount that exceeds the Gross National Product of Uruguay. The dispute is over putting health warnings on cigarette packs. Under the TPP, all countries become liable for similar profit-driven suits, including the United States. Such suits, if won by the corporation, will undermine our economic and national security, our healthcare laws, as well as our environmental and food laws and regulations.

These so-called "investor-state" cases are litigated in a special international “arbitration” body; one of the most frequently used is The International Center for the Settlement of Investment Disputes (ICSID), an agency of The World Bank. Their proceedings are closed to public participation, observation and input. A three-member panel of arbitrators has the power to award any amount of any country’s taxpayer

money to any corporation making a claim of “lost profits.” The TPP will greatly expand legal liability by countries for speculative lost profits by multinational corporations.

This tribunal has been used to settle such disputes under previous trade agreements, including NAFTA. It is not accountable for its decision-making to any justice system or legislature anywhere because it is an arm of the World Bank, and the member countries of the World Bank must abide by those decisions; thus, there is no recourse for appeal for those governments/citizens that are adversely impacted by the tribunal’s rulings. In 48% of the cases heard by the tribunal in 2012, the claims made were upheld in full or in part.¹

The taxpayers of the losing nation are liable to pay millions or potentially billions of dollars. The impact of such financial judgments can be devastating to the United States and member countries. In many nations, economic disparity has been growing, infrastructure has been crumbling due to bad policies and lack of appropriate regulation, and, on top of that, unreasonable, unbalanced austerity measures have been imposed on the people. Furthermore, economic hardship from adverse TPP tribunal rulings can greatly reduce the resources going into critical social and economic national needs, thereby accelerating a downward spiral in the quality of life of our nation and relegating more of our citizens to a marginal existence as part of the growing economic underclass.

As taxpayers who are at risk under TPP, we have no say in these lawsuits. It is unclear what the tribunal’s standards of proof are to show damages in the form of lost profits (which is, by definition, an estimate). There is absolutely no evidence that the concerns of the citizens of the nation/defendant are considered. Moreover, because many of the arbitrators in this “court” were previous employees or consultants working for the corporations, their orientation reflects the culture of the corporate world; this

predisposes them to issue biased judgments, rather than an objective finding that is balanced between the interests and rights of citizens, and the interests of the corporations. This fact is evidenced by the high number of cases decided in favor of the claimant.

Decisions by the ICSID panels do not set any precedent; each three-member panel may rule as it may interpret international investment law. This lack of *stare decisis* (where each case is bound by preceding rulings on similar facts) leads to inconsistent rulings. As a result, there have actually been cases where several rulings have been issued addressing the same facts where panels have reached contradictory conclusions.² This has led to what some have termed a 'legitimacy crisis' in international investment arbitration.³ *Amicus curiae* (friends of the court) briefs are not allowed,⁴ so that no means are provided for the people's interests to be represented; the people are relegated to a passive role of relying on their government to defend them, and participant countries are bound by their signature on the treaties and agreements establishing the tribunals.

The only remedies available to the losing party are: rectification, supplementary decision, interpretation, revision, and annulment, all of which are decided by a three-member *ad hoc* committee. Grounds for annulment are limited to the *ad hoc* committee's finding of one of the following factors: (a) the Tribunal was not properly constituted; (b) the Tribunal manifestly exceeded its powers; (c) there was corruption on the part of a Tribunal member; (d) there was a serious departure from a fundamental rule of procedure; or (e) the award failed to state the reasons on which it is based.⁵ These remedies are largely procedural. Remedies should go to the substance of the dispute, with all of the defendant nation's economic and social factors taken into consideration.

Because this tribunal's decisions establish corporate sovereignty on an international scale, it weakens the rights of member nations and their citizens. This includes weakening labor rights, eroding environmental standards for water, air and food quality, extending intellectual property rights that will discourage innovation and result in higher drug prices, and preventing access to life-saving medicines by people with serious illnesses.

Under what conceptions of "fairness," "equity," and "democracy" is such a conflict resolution system viable? Based on the Universal Declaration of Human Rights (UDHR) it constitutes an egregious abuse of the people's rights. Under the UDHR, corporations are NOT treated as persons. But under the United States Supreme Court's definition of corporations as persons, the United States appears to be violating basic human rights by pursuing the corporate agenda with impunity.

NAFTA and TPP are grabs of global power by corporations allowing them to limit or eliminate state regulations entirely. As such, we have grave concerns about the TPP's chilling effect on our rights, our governments' rights, and those of civil society in all participating nations. The TPP is nothing more or less than a de-regulatory scheme, a new form of colonialism – global corporate colonialism.⁶

Threats to Food Sovereignty

In recent years, the so-called "life science" corporations have increasingly asserted their rights to make a profit throughout the countries of the world. Under TPP, they will have increased power to usurp land from indigenous farmers who only know that way of life and who have no other skills. Their produce will be replaced with genetically modified (GM) plants which will be forced on all farming in each country, without a say by the farmers and the indigenous people. Family farmers will lose their livelihoods. Corporations will then employ only the cheapest labor possible for their

large-scale GM crops, even permitting child- and slave-labor in some countries. Such a subordination of local economies to transnational policies results in a monopoly over the means of production which exploits natural resources and the labor force.⁷

The loss of national sovereignty results in the loss of individual sovereignty over the key elements of life - one's livelihood, one's food – what it consists of and where it comes from - one's habitat, and one's wages. Our very freedoms are threatened.

Indigenous people everywhere declare their freedom as follows:

Food Sovereignty:

1. Focuses on Food for People: Food sovereignty puts the right to sufficient, healthy and culturally appropriate food for all individuals, peoples and communities, including those who are hungry, under occupation, in conflict zones and marginalized, at the center of food, agriculture, livestock and fisheries policies; and rejects the proposition that food is just another commodity or component for international agribusiness;
2. Values Food Providers: Food sovereignty values and supports the contributions, and respects the rights, of women and men, peasants and small scale family farmers, pastoralists, artisanal fisherfolk, forest dwellers, indigenous peoples and agricultural and fisheries workers, including migrants, who cultivate, grow, harvest and process food; and rejects those policies, actions and programs that undervalue them, threaten their livelihoods and eliminate them;
3. Localizes Food Systems: Food sovereignty brings food providers and consumers closer together; puts providers and consumers at the center of decision-making on food issues; protects food providers from

the dumping of food and food aid in local markets; protects consumers from poor quality and unhealthy food, inappropriate food aid and food tainted with genetically modified organisms; and rejects governance structures, agreements and practices that depend on and promote unsustainable and inequitable international trade and give power to remote and unaccountable corporations;

4. Puts Control Locally: Food sovereignty places control over territory, land, grazing, water, seeds, livestock and fish populations, on local food providers and respects their rights. They can use and share them in socially and environmentally sustainable ways which conserve diversity; it recognizes that local territories often cross geopolitical borders and ensures the right of local communities to inhabit and use their territories; it promotes positive interaction between food providers in different regions and territories and from different sectors that helps resolve internal conflicts or conflicts with local and national authorities; and rejects the privatization of natural resources through laws, commercial contracts and intellectual property rights regimes;

5. Builds Knowledge and Skills: Food sovereignty builds on the skills and local knowledge of food providers and their local organizations that conserve, develop and manage localized food production and harvesting systems, developing appropriate research systems to support this and passing on this wisdom to future generations; and rejects technologies that undermine, threaten or contaminate these, e.g. genetic engineering;

6. Works with Nature: Food sovereignty uses the contributions of nature in diverse, low external input agro-ecological production and

harvesting methods that maximize the contribution of ecosystems and improve resilience and adaptation, especially in the face of climate change; it seeks to “heal the planet so that the planet may heal us”; and rejects methods that harm beneficial ecosystem functions, that depend on energy intensive monocultures and livestock factories, destructive fishing practices and other industrialized production methods, which damage the environment and contribute to global warming.⁸

Corporations such as Monsanto have used trade pacts to put up legal barriers, making it harder, if not impossible, for countries to adopt and maintain strong food safety regulations, and they move our societies even further away from food sovereignty for local peoples. The multinational corporations will use the TPP the same way to block any consumer’s right-to-know rules such as laws that mandate product labeling; they will litigate against the historic tradition of seed-saving, and will impose their seeds and pesticides on indigenous family farmers.⁹

On a global scale, the agri-business corporations will force farmers to sell their food supplies at prices as low as possible, so that they (the corporations) can sell them as high as possible on the global market, thus usurping both local and global food sovereignty. It is not an exaggeration to say this will also serve to eliminate family farms, exacerbate migration to urban area without basic services, and likely lead to wild fluctuations in food prices everywhere.¹⁰

Such a corporate agenda has even been upheld in some of our courts. Thus, the people have very few systems left which do not support the corporate agenda at the expense of our individual freedoms.

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Economic Threats

The TPP will accelerate the growth of a permanent underclass in the United States by outsourcing production, technical and management jobs to lower-wage jobs in other countries. This will further destroy our manufacturing base and thus reduce American wages. With larger numbers of our citizens unemployed, under-employed and under-compensated, our tax base which funds programs such as education, healthcare, Social Security, and environmental protection, will be diminished, and our social and economic problems will be exacerbated. The privatization of these programs will create further inequities and profit-making at our expense - programs in which we have earned the benefits, i.e., Social Security.

In addition to the United States lobbying heavily for lower tariffs on its exports, corporations that have already outsourced, and will continue to outsource, production jobs to Pacific-Rim countries, and they are lobbying for lower tariffs on goods they want to export back to the United States. That is an agenda that favors corporations over national interests and will further hollow out our manufacturing capability. Corporations are not looking out for our national interests; rather they seek to deprive governments of their regulatory rights in the name of profit-seeking.

Threats to the Environment

Under TPP, corporations can override the environmental regulations of all member countries, which they think “indirectly expropriate” their profits. Investment provisions in NAFTA and TPP that enable challenges of countries’ environmental and other regulations have already weakened portions of our own Clean Air Act, Endangered Species Act, and Marine Mammal Protection Act, in addition to environmental and consumer protection regulations in developing countries.¹¹

Which regulations would be lost? Protective regulations governing clean water, unpolluted air, non-toxic soil, safe food, animal protection, and workforce protection are all vulnerable. For example, under NAFTA, the Canadian Government settled in a lawsuit which asked for 250 million taxpayer dollars when a US chemical company, Ethyl Corporation, challenged a Canadian environmental ban of the gasoline additive MTBE because it was carcinogenic. Canada responded by paying \$13 million and removing the regulation, deciding that there was not enough evidence that MTBE is carcinogenic.¹² Civil society has no voice in these kangaroo proceedings. Chapter 11, Article 1114: Environmental Measures,¹³ of NAFTA, provides that nothing in the Chapter should prevent a nation from adopting and enforcing regulatory measures to ensure investment activity “is undertaken in a manner sensitive to environmental concerns.”¹⁴ It goes on to state: “it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures.”¹⁵ Either these trade agreements have no teeth, or the Ethyl case settlement appears to have violated these “laws.”

Women Occupy San Diego (WOSD) supports the six recommendations of the Special Counsel for International Trade Policy to the Humane Society International, Ms. Sarah V. Stewart, in total. These are found in her testimony before the Trade Policy Staff Committee (T{SC), dated March 4, 2009.¹⁶

Ms. Stewart’s fourth recommendation calls for the establishment of an Independent Secretariat...

“to receive and investigate submissions from private citizens and NGOs alleging that a party is failing to effectively enforce an environmental law. This independent mechanism empowers civil society, NGOs, and the private sector to have a voice in their country’s environmental policies, programs, and enforcement regimes without fear of governmental intervention in the process. To ensure that this mechanism operates in a

meaningful manner, it is essential that the Secretariat understand the objectives of the environment chapter and be guided by the chapter's working procedures, and that all parties be vigilant in ensuring that the Secretariat properly carries out the obligations of the chapter.”¹⁷

Such an independent voice is sorely needed, especially in terms of violations of environmental regulations. To our knowledge, Ms. Stewart's recommendation has not been adopted, and, if the TPP is going to be meaningful in any sense, we highly endorse the inclusion of an independent Secretariat for environmental issues.

Threats to Labor

The claims that “free” trade agreements, including the TPP, will create more jobs for Americans are not based on any unbiased evidence from the past. The Economic Policy Institute states that these are false promises, because

“they misrepresent the real effects of trade on the U.S. economy: trade both creates and destroys jobs. Increases in U.S. exports tend to create jobs in this country, but increases in imports tend to reduce jobs because the imports displace goods that otherwise would have been made in the United States by domestic workers.”¹⁸

Furthermore, the Congressional Research Service (CRS) surveyed all the major economic studies of NAFTA's effects in 2004 and concluded: NAFTA had little or no impact on aggregate employment. This report evaluated four studies produced by the Congressional Budget Office (CBO), the World Bank, the Carnegie Endowment for International Peace, and the United States International Trade Commission (USITC). It states that employees who lost jobs because of NAFTA were eligible for NAFTA-trade adjustment assistance. The Carnegie report noted that at the end of 2003, about 525,000 workers had been certified under that program and were heavily concentrated in manufacturing. Over a period of ten years, the study concluded that this number represented a small portion of the aggregate work force, many of whom were already re-

employed (*emphasis added*). Nonetheless, it is among the most important adjustment issues related to trade, along with the possible need for a larger “social safety net.”¹⁹

Two important points about the above need to be addressed:

1. The displaced workers found new jobs within ten years. This may not be the case today or in the foreseeable future. Under our current and foreseeable economic situation, many people who have become unemployed have given up their hopes of finding a comparable job and are likely to become unemployed on a long-term basis. They may either leave the job market, losing their homes and retirement benefits, or they might be fortunate enough to find a re-training program, or be offered a lower-paying job if they are not too old. That is today’s reality, not to mention the fact that our college graduates are pouring into the job market and finding no jobs waiting for them.

Any benefits gained as a result of NAFTA must be weighed against the facts that: a) US wages have not kept pace with labor productivity, and b) inequality of income has increased rapidly in the US. Edward Alden, a senior fellow at the Council on Foreign Relations, noted that trade deals have hastened the pace of these changes because they have “reinforced the globalization of the American economy.”²⁰ Although these pains might be viewed by some as short-term, and therefore negligible, they have in fact contributed heavily to the decimation of the manufacturing base in the United States. In addition, losing one’s home and retirement benefits has led to a commensurate lowering of living standards, which is not short-term but rather permanent for millions of US citizens.

2. The study points out that it is possible that there will be a need for a larger “safety net” due to the difficulty of finding another job. That is not only possible, but actually very likely, given the sluggish growth of our economy, with people still losing their jobs and homes. Many of us are experiencing a decrease in our hard-earned Social

Security benefits, eroded 401(k) plans, and continued long-term unemployment. This may lead to further degradation of infrastructure and services, leading our country into a decline even worse than what we have experienced recently.

If this lesson is not learned from the 10-year experience with NAFTA, then the TPP will repeat these mistakes and ignore the need for real growth in wages and jobs for our workers. The US Government appears to miss the point that, as stakeholders in the outcome of any trade negotiations, the people's welfare must come first.

Threats to Health

According to leaked documents referenced by Doctors Without Borders/Médecins Sans Frontière (MSF) in a press release dated March 4, 2013, the United States is paying lip service to the need to balance health interests regarding access to medicines. Instead, the United States is supporting trade interests that seek longer-term patent protection, which drives prices up and denies access to lifesaving drugs.²¹

MSF states that "(t)hese demands represent a complete repudiation of the U.S. government's own 2007 bipartisan trade policy, a commitment to scale back some of the harshest Intellectual Property (IP) provisions in trade deals with developing countries."²²

TPP proposes that governments would be required to grant new 20-year patents for modifications of existing medicines ("evergreening"), such as new forms, uses or methods, even without improvement of therapeutic efficacy for patients.²³ Another provision would make it more expensive and cumbersome to challenge undeserved or invalid patents; and yet another would add additional years to a patent term to compensate for administrative processes. Altogether, these and other provisions will add up to many more years of high-priced medicines at the expense of people needing treatment, who have little time to wait longer for access to affordable generics."²⁴ Extension of drug patents will not save lives. To the contrary, such an arbitrary, one-

sided provision in any trade agreement will deprive the most ill and vulnerable people in society around the world of their live-saving medicines.

MSF cites an example: U.S. pharmaceutical company Eli Lilly is using Chapter 11 of NAFTA to demand \$100 million from the Canadian government for invalidating one of its patents, claiming, among other things, that the company's expected profits were "expropriated" when the patent was overturned.²⁵ The legal system in the United States does not allow speculative damages; they must be proven. Apparently, those who conjured up Chapter 11 think corporations are not required to meet such burdens of proof.

Persons, when they move to other countries, must obey the laws of that country. Yet, corporations, as "persons" under U.S. law, are allowed to violate those same laws. This is a legal perversion which places corporations above the people. Such an extension of corporate rights over human personal rights is a further erosion of the U.S. Constitution and the "inalienable" (not anymore under TPP) rights granted us as human beings.

In addition to hindering access to medicine, the TPP will have other harmful effects on public health. For example, tobacco has been "Public Health Threat Number 1" for many years, as it is the leading preventable cause of death worldwide, and is the only legal consumer product that kills when used as intended. As the Center for Policy Analysis on Trade and Health (CPATH) documents on their website, the tobacco industry has more than a dozen representatives spread throughout several USTR Trade Advisory Committees, greatly outnumbering the one advocate (Campaign for Tobacco Free Kids) for public health that serves on one of these committees. Many public health leaders and organizations have endorsed CPATH's statement on the TPP, which calls for the following:

1. Trade agreements must guarantee nations' rights to protect public health from tobacco use.
2. The TPP must not undermine the right and ability of participating countries from exercising their domestic sovereignty in order to adopt or maintain measures to reduce tobacco use and to prevent the harm it causes to public health.
3. We must set trade policy through a transparent process that involves the public. Endorsers include the American Academy of Pediatrics, the American Heart Association, American Public Health Association.²⁶

WOSD endorses and supports this call to action.

Threats to the Global Internet

Based on leaked documents, the Intellectual Property (IP) chapter of the TPP threatens to fundamentally change the Internet. The U.S. currently has a semblance of net neutrality in which owners of internet communications infrastructure (fiber optics, cables, etc.), must not give preferential treatment to particular content or content providers, in terms of bandwidth provided. The leaked draft agreement would give big media new powers to lock users out of their own content and services, and to shut down websites and remove content, thereby blocking users and entrepreneurs from enjoying the benefits of the open Internet.²⁷

The reasons given for these measures are to combat piracy and to protect artists and creators by providing a return on their creations that others use for free under the present system of use of the Internet.²⁸ These arguments are disingenuous. The reality is that the big media which are in the process of buying all the newspapers and thereby monopolizing "the message" are making sure that the TPP will incorporate some of the worst features of US copyright law and impose them on Pacific Rim countries: a broad

ban on breaking digital locks on devices and creative works (even for legal purposes), a minimum copyright term of the lifetime of the creator plus 70 years (the current international norm is the lifetime plus 50 years), criminalization of copyright infringement, privatization of enforcement (i.e., lawsuits) for copyright infringement, harmful statutory damages with no proof of actual harm, and government seizures of computers and equipment involved in alleged infringement.²⁹

Moreover, the TPP does not include the many safeguards under US copyright law that favor the public interest, such as free speech, and that act as safety valves in limiting creators' protections.³⁰ This means that any search online could, without the safeguards, subject a computer user to enforcement of copyright infringement – users such as libraries and schools would no longer be able to do research. United States courts have long held that librarians and teachers can make temporary copies without permission; but these provisions are not being included in the TPP.³¹

People in other countries may not know what it means to have the rights of free speech, innovation, privacy, and digital freedom, but these provisions of the TPP are more evidence that the United States is aiming at lowering our standards in order to attract other nations to sign this secret agreement and to “harmonize” laws among the signatories. Our Founding Fathers gave us these inalienable rights, and we will not idly stand by and watch them being eroded by private, profit-seeking entities. Accepting new rules such as these will not just re-write our national laws, but it will also restrict the possibility for countries to introduce more balanced copyright laws in the future.

Threats to the Credibility of the United States Government

At various points in time in our history, the motives of the United States have been questioned and/or challenged. A recent example is the invasion of a sovereign nation, Iraq. Now, we are negotiating in secret with some 600 unelected corporate lobbyists.

The official reason given for the secrecy is that if the people knew what was being negotiated, they would not approve. As Senator Elizabeth Warren stated in her letter to the nominated US Trade Representative: “If transparency would lead to widespread opposition to a trade agreement, then that trade agreement should not be the policy of the United States.”³²

In fact, the TPP has very little to do with trade. It is mostly a grab for power by the corporations in their quest to de-regulate on a global scale as a meant to their end of establishing a “Plutonomy.”³³ According to Citigroup analysts, a “Plutonomy” is where ongoing growth is powered by the wealthy few and creates an income inequality which must also grow in order for the plutonomy to thrive.³⁴ In plutonomies, “the rich absorb a disproportionate chunk of the economy and have a massive impact on reported aggregate numbers like savings rates (lower), current account deficits (higher), consumption levels (higher), etc.”³⁵ The wave of globalization that the world is currently suffering, is clearly to the advantage of global capitalists, but it is also to the disadvantage of developed market labor, especially at the lower end of the food-chain.³⁶

Conclusion and Calls to Action

Our grave concern is that the TPP represents an abdication by the U.S. and other nations of their sovereignty to multinational corporations. The Administration does not appear to be cognizant of the consequences of the TPP as currently drafted and seems reluctant to preserve our sovereignty over the corporate agenda.

Profits alone do not make a successful corporation. Corporations were originally chartered to provide a public benefit while pursuing reasonable profits for their goods and services, such as the ancient Roman aqueducts and the East-India Trading Company. Greed has caused our society to move away from such altruistic goals. Reasonable profits are out, unlimited greed is in.

Call for Action

It is important for our citizens and those of other countries to take back their rights and claim their rightful place within their national boundaries. We are very discouraged that the public good will never again be considered in a truly balanced overview of ANY proposed policy. It is clear that profit-driven corruption of those first corporate principles, far from anything reasonable, is driving the accelerated corporate globalization that has already taken place and continues to take over.

We DEMAND that the whole draft text of the proposed TPP be made available immediately to all of the citizens of all the nations that will be affected by the TPP. All proposed TPP provisions should be posted on the Internet after each negotiating session as well as after all the inter-sessional sessions, so that they can be evaluated and fully debated on a national and global scale. Because an agreement so encompassing affects all of us, we should all have access to the information and be allowed to voice our views in this critical debate.

We call on the Obama Administration to de-classify ALL draft texts of the TPP and to release them all to the public immediately. Transparency and knowledge are essential to a democratic society where decisions are made on the basis of informed consent. Only if we are armed with knowledge can we effectively express our views and assert our democratic rights to property, adequate healthcare, security of person, living wages, and the freedoms and inalienable rights granted to us by the United States Constitution and the United Nations Universal Declaration of Human Rights.

We call on all nations to work together for the common good, for better integration of true trade policies into each country's overall development program by coordinating and supporting it. Such enlightened policies would include domestic reforms bringing

more attention to agricultural, environmental, immigration, tax, and labor rights protection. The World Bank and the Carnegie Institute have called for such reforms.

We call on all citizens to inform themselves and to ask their Congressional Representatives and Senators to oppose President Obama's request for a "fast-track" rubber stamping of the draft TPP. We need a broad-based national debate about the TPP because it will affect our lives and those of all our descendants.

Finally, we call on all citizens to act through their power of the vote, even though it seems that power has been compromised by the Supreme Court in the *Citizens United* case. Voters must inform themselves about the effect on their lives of the "free trade" agreements, and then act to effect change. The outsourcing and offshoring of manufacturing and other jobs as well as the protection of low-paying jobs are major areas where using our voting power will change the current pattern of pricing domestic workers out of jobs and allowing insourcing by hiring illegal immigrants. We must make our voices heard.

ENDNOTES

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2. Dr. Kyla Tienhaara, Regulatory Institutions Network, Australian National University. "Investor-State Dispute Settlement in the Trans-Pacific Partnership Agreement - Submission to the Department of Foreign Affairs and Trade - 19 May 2010," p. 5. *Available at:* http://www.dfat.gov.au/fta/tpp/subs/tpp_sub_tienhaara_100519.pdf, *citing* Charles N. Brower, Charles H. Brower and Jeremy Sharpe, 'The Coming Crisis in the Global Adjudication System' (2003) 19 *Arbitration International* 415; Susan Franck, 'The Legitimacy Crisis in Investment Treaty Arbitration: Privatising Public International Law through Inconsistent Decisions' (2005) 73 *Fordham Law Review* 1521.
3. *Id.*
4. *Id.* at 6.
5. ICSID. Grounds for annulment are limited to the *ad hoc* committee's finding of one of the following factors: (a) the Tribunal was not properly constituted; (b) the Tribunal manifestly exceeded its powers; (c) there was corruption on the part of a Tribunal member; (d) there was a serious departure from a fundamental rule of procedure; or (e) the award failed to state the reasons on which it is based.
Background Paper on Annulment For the Administrative Council of ICSID (August 10, 2012)
Available at: <https://icsid.worldbank.org/ICSID/FrontServlet?requestType=ICSIDNewsLettersRH&actionVal=ShowDocument&DocId=DCEVENTS11>.
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7. *Id.*
8. International Planning Committee for Food Sovereignty. "DEFINITION OF FOOD SOVEREIGNTY (FROM THE 2007 DECLARATION OF NYÉLÉNI)." *Available at:* <http://www.foodsovereignty.org/FOOTER/Highlights.aspx>.
9. Arthur Stamoulis. Citizens Trade Campaign. "Seven Reasons to Fight the TPP." *Available at:* <http://www.cipamericas.org/archives/9349>.
10. *Id.*
11. *Id.*
12. Margaret Schneider. "Why doesn't the state of California sue Methanex for the remediation of MTBE contamination, as well as direct, indirect and anticipated human health costs?" Institute for Trade and Commercial Diplomacy. Trade And Environment - A TEACHING CASE - MTBE AND NAFTA, 1 (undated). *Available at:* http://www.commercialdiplomacy.org/case_study/case_mtbe_public.htm.

13. Annex I: NAFTA Chapter 11 excerpts. Id. at 2.
14. Id.
15. Id. The text states word-for-word as follows:
Article 1114: Environmental Measures
 1. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental concerns.
 2. The Parties recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of an investment of an investor. If a Party considers that another Party has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding any such encouragement.
16. Sarah V. Stewart. "Testimony of Sarah V. Stewart Special Counsel, International Trade Policy, Humane Society International" (March 4, 2009); *available at*: http://www.hsi.org/assets/pdfs/tpp_hearing_testimony_030409.pdf.
17. Id.
18. Robert E. Scott, EPI. "The high price of 'free' trade: NAFTA's failure has cost the United States jobs across the nation," 3 (November 17, 2003) *Available at*: http://www.epi.org/publication/briefingpapers_bp147/.
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